

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

IN RE: ANN DONOVAN

ARKANSAS BAR ID #78043

CPC DOCKET NO. 2001-057

**FINDINGS AND ORDER**

The formal complaint upon which this Findings and Order is premised arose from the complaint of Steven R. Jackson and J.D. Moon. Mr. Jackson brought the matter to the attention of the Committee in his capacity as counsel for J.D. Moon, another attorney. Mr. Moon had turned over a number of delinquent accounts to Ann C. Donovan, an attorney practicing in Fayetteville, for collection on his behalf.

Mr. Moon and Ms. Donovan agreed at the time the attorney / client relationship was formed that the fee agreement would be that Ms. Donovan would receive 50% of all amounts collected on the accounts which were turned over to her. Ms. Donovan was to prepare a written agreement memorializing this contingent fee agreement but she failed to do so. Despite the Model Rule requirement for contingent fee agreements to be in writing, Ms. Donovan asserts that the lack of one was excused because both parties to this arrangement were attorneys. Further, at no time after being hired by Mr. Moon did Ms. Donovan file any status reports or respond to Mr. Moon's request for information about the accounts. Ms. Donovan disputed this and asserted that she did keep Mr. Moon apprised of all activities undertaken by her and that she forwarded monies to him as collected.

On June 6, 2000, Mr. Moon wrote Ms. Donovan and requested that he receive monthly reports on the collection efforts. There was no compliance with this request. After weeks elapsed with no communication from Ms. Donovan, Mr. Moon wrote her and asked that she return all of his files. This correspondence was dated September 6, 2000. Ms. Donovan did not honor that request nor the follow-up request sent on September 27, 2000. Subsequently on October 24, 2000, Mr. Moon wrote and not only requested return of the files but also asked that Ms. Donovan provide a full accounting on the collection accounts. Ms. Donovan complied with neither request.

Finally, Mr. Moon hired Mr. Jackson to assist him in obtaining return of his files and the funds collected on his behalf. Mr. Jackson wrote Ms. Donovan and told her when he would be at her office to pick up the files. She was not present when he arrived nor had she advised him that she would be absent from the office. According to Ms. Donovan, she did not receive the letter from Mr. Jackson until after the date he was to appear at her office. She also asserted that she contacted Mr. Jackson's office and advised that she would be glad to meet with him at a subsequent date to return the files to him. However, as of May 24, 2001, no files had been returned despite repeated efforts. Further, Ms. Donovan had continued to fail to account for any sums collected on the accounts.

Upon consideration of the formal complaint, the response thereto, and the Arkansas Model Rules of Professional Conduct, the Committee on Professional Conduct finds:

1. That Ms. Donovan's conduct violated Model Rule 1.4(a) when despite Mr. Moon's requests for information concerning the delinquent accounts he turned over to her for collection, she did not respond to him. Model Rule 1.4(a) requires that a lawyer keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.
2. That Ms. Donovan's conduct violated Model Rule 1.5(c) when she failed to place the contingent fee agreement between herself and Mr. Moon in written form. Model Rule 1.5(c) requires, in pertinent part, that a contingent fee agreement be in writing.
3. That Ms. Donovan's conduct violated Model Rule 1.15(b) when she failed to provide Mr. Moon any type of accounting despite Mr. Moon requesting that she provide him with a complete accounting of all sums she had collected on the delinquent accounts of his. Model Rule 1.15(b), requires, in pertinent part, that upon receiving funds in which a client has an interest, a lawyer promptly render a full accounting regarding such property upon request by the client.
4. That Ms. Donovan's conduct violated Model Rule 1.16(d) when she failed to return Mr. Moon's files to him or his new counsel, Mr. Jackson, after her representation of Mr. Moon was terminated. Model Rule 1.16(d) requires, in pertinent part, that a lawyer take steps to the extent reasonably practicable to protect a client's interests, such as surrendering papers and property to which the client is entitled.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct that ANN DONOVAN, Arkansas Bar ID #78043, be, and hereby is, REPRIMANDED for her conduct in this matter.

ARKANSAS SUPREME COURT COMMITTEE ON

PROFESSIONAL CONDUCT

By:

Bart Virden

Chairman

Date: